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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,060	02/03/2004	Steven Rehkemper	4004013.0095	4534

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ADAM K. SACHAROFF  
MUCH SHELIST FREED DENENBERG AMENT&RUBENSTEIN,PC  
191 N. WACKER DRIVE  
SUITE 1800  
CHICAGO, IL 60606-1615

EXAMINER

THANH, QUANG D

ART UNIT

PAPER NUMBER

3771

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/03/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/772,060	<b>Applicant(s)</b> REHKEMPER ET AL.	
	<b>Examiner</b> Quang D. Thanh	<b>Art Unit</b> 3771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This office action is responsive to the amendment filed on 10/11/06. As directed by the amendment: claims 1,2,4,6 have been amended; claims 5,7-27 have been cancelled. Thus, claims 1-4 and 6 are presently pending in this application.

#### ***Terminal Disclaimer***

2. The terminal disclaimer filed on 10/11/06 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of US Patent No. 6,689,078 has been reviewed and is accepted. The terminal disclaimer has been recorded.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sale et al. (6,164,967) in view of Diffendal (5,906,213). Sale et al. discloses an oral cleaning device comprising: a reservoir body 21 having a lower aperture and an upper aperture 28 (fig. 5b); a manual (fig. 7) operable removable (fig. 2) pump 19 attached to the reservoir body in communication with the lower aperture (fig. 7), the manual operation of the removable pump permit a user to increase pressure within reservoir body the

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such that the liquid becomes pressurized ; a neck and head assembly 4 (fig. 5a) having an outlet aperture 71 centrally positioned in the neck and head assembly (fig. 4a), the outlet aperture for expelling pressurized liquid (fig. 5b); a mechanism 88 in communication with the neck and head assembly and the reservoir body for controlling the flow of pressurized liquid out of the device (fig. 7); except for a flossing head secured to the neck/head assembly that includes a piece of flossing material that is supported over the centrally positioned outlet aperture such that expelled pressurized liquid flows over said piece of flossing material. However, Diffendal teaches a dental cleaning device (fig. 1) having a means for dispensing pressurized fluid out of an aperture 69, and a flossing head assembly that includes a piece of flossing material 5 supported over the centrally positioned aperture 69 (fig. 1) such that dispense pressurized fluid runs over said piece of flossing material (fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the device in the Sale's reference, to include a flossing head assembly having all the features as taught by Diffendal, for the purpose of allowing the user to spray the fluid such as mouth wash down the length of the dental floss 5 while cleaning his teeth (col. 3, lines 1-7).

4. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sale/Diffendal in view of Dougan et al. (7,059,334). Sale/Diffendal discloses the claimed invention except for a pair of arms extending in an arc from a region having a cavity and supporting a piece of flossing material; and a grooved region sized to removably support the center region. However, Dougan et al. discloses a flossing head assembly

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(fig. 1) comprising: a center region 23 (fig. 3a) having a pair of arms 21 (fig. 3a) extending therefrom to create a cavity region between said pair of arms, the pair of arms 21 supporting a piece of flossing material 5 over said cavity; and a grooved region 10 sized to removably support the center region 23 (fig. 3a). Therefore, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to modify the flossing head assembly so that it would include a pair of arms and a groove region as taught by Dougan, for the purpose of allowing the flossing head to be removed and thus replaced with new one, and because applicant has not disclosed that having a pair of arms and a groove region provides an advantage, solves any stated problem, or is used for any particular purpose. One of ordinary skill in the art, furthermore, would have expected that the device would perform equally well with either designs because the ability of flossing is not affected by the claimed feature. Therefore, it would have been an obvious matter of design choice to modify the device to obtain the invention as specified in claims 2-3.

5. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diffendal (5,906,213) in view of Dougan et al. Diffendal discloses a dental cleaning device (fig. 1) having a means for dispensing pressurized fluid out of an aperture 69, and a flossing head assembly that includes a piece of flossing material 5 supported over the centrally positioned aperture 69 (fig. 1) such that dispense pressurized fluid runs over said piece of flossing material (fig. 1), except for a pair of arms extending in an arc from a region having a cavity and supporting a piece of flossing material; and a

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grooved region sized to removably support the center region. However, Dougan et al. discloses a flossing head assembly (fig. 1) comprising: a center region 23 (fig. 3a) having a pair of arms 21 (fig. 3a) extending therefrom to create a cavity region between said pair of arms, the pair of arms 21 supporting a piece of flossing material 5 over said cavity; and a grooved region 10 sized to removably support the center region 23 (fig. 3a). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the flossing head assembly so that it would include a pair of arms and a groove region as taught by Dougan, for the purpose of allowing the flossing head to be removed easily and thus replaceable with new one, and because applicant has not disclosed that having a pair of arms and a groove region provides an advantage, solves any stated problem, or is used for any particular purpose. One of ordinary skill in the art, furthermore, would have expected that the device would perform equally well with either designs because the ability of flossing is not affected by the claimed feature. Therefore, it would have been an obvious matter of design choice to modify the device to obtain the invention as specified in claims 4 and 6.

### ***Response to Arguments***

6. Applicant's arguments filed on 10/11/06 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (571) 272-4982. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The Central FAX phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for all communications.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Quang D. Thanh', written in a cursive style.

Quang D. Thanh  
Primary Patent Examiner  
Art Unit 3771  
(571) 272-4982